

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

FILED
IN COURT
ASHEVILLE, N.C.
FEB 16 2011
U.S. DISTRICT COURT
W. DIST. OF N.C.

1:11CR10-MR-DLH

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES W. BAILEY, JR.,

Defendant.

**CONSENT ORDER AND
JUDGMENT OF FORFEITURE**

BASED UPON the plea of guilt, and finding that there is a substantial nexus between the property listed below and the offenses to which the defendant has pled guilty, IT IS HEREBY ORDERED THAT:

1. Defendant shall forfeit his interest in the following property pursuant to 18 U.S.C. §§ 981 and 982, 21 U.S.C. § 853, and/or 28 U.S.C. § 2461(c), provided, however, that **such forfeiture is subject to any and all third party claims and interests pending final adjudication** as set forth herein:

- I Any and all currency and monetary instruments that were received during the schemes alleged in the Bill of Information, including the sum of \$13,000,000 in proceeds of the alleged violations;
- II The following real properties:
 - a The real property at 812 New Leicester Highway, Asheville, North Carolina, more particularly described in Deed Book 3950, Page 305 in the Buncombe County Register of Deeds;
 - b The real property at 820 New Leicester Highway, Asheville, North Carolina, more particularly described in Deed Book 3953, Page 361 in the Buncombe County Register of Deeds;
 - c The real property at 1076 Bear Creek, Asheville, North Carolina, more particularly described in Deed Book 3444, Page 502 in the Buncombe County Register of Deeds;
 - d The real property at 56 Central Avenue, Asheville, North Carolina, as more particularly described in Deed Book 1995, Page 67, Deed Book

2455, Page 563 and Deed Book 2455, Page 565 in the Buncombe County Register of Deeds;

- e The real property at 24 Old Chunns Cove Road, Asheville, North Carolina, as more particularly described in Deed Book 3719, Page 92 in the Buncombe County Register of Deeds;
- f The real property at 921 Old Leicester Highway, Asheville, North Carolina, as more particularly described in Deed Book 2045, Page 673 in the Buncombe County Register of Deeds;
- g The real property at International Center Office Building on Oakland Avenue, Pine Street, and North Pine Street, Spartanburg, South Carolina, more particularly described as parcel Number 7120278.00, 71207289.00, 71207290.00 71207299.00 71207299.01, 71207299.02, 71207299.03, 71207299.04, 71207314.00. 71207315.00 and 71211074.01 at Deed Book 90C, Page 225, Deed Book 90C, Page 231, Deed Book 90G, Page 497 and Deed Book 90C, page 231 in the Spartanburg County Register of Deeds;
- h The real property at 19 Dodd Lane and Lot B, Narrow Circle, Inman, South Carolina, more particularly described as Parcel Numbers 1-28-04037.00 and 1-28-03004.15 at Deed Book 87A, Page 606 in the Spartanburg County Register of Deeds;
- i The real property at Lot 55, Bayside, Grainger County, Tennessee, more particularly described as Parcel Number 02-032-C-032-C-A-055.00-000 in the Grainger County Register of Deeds;
- j The real property at Lot 54, Bayside, Grainger County, Tennessee, more particularly described as Parcel Number 02-32G-A-0320-05400-000 in the Grainger County Register of Deeds;
- k The real property at Lot 53, Bayside, Grainger County, Tennessee, more particularly described as Parcel Number 02-032G-A-032B-05300-00 in the Grainger County Register of Deeds; and
- l The real property at Lot 52, Bayside, Grainger County, Tennessee, more particularly described as Parcel Number 02-032G-A-032B-05200-000 in the Grainger County Register of Deeds;

III The following vehicles:

- a One 2008 Mercedes Benz, VIN 4JGBB22E68A312333;

- b One 2010 Fleetwood Discovery Motor Home, VIN 4VZDN1A9XAC071985; and
- c One 2002 Ford truck, VIN 1FDWX37F32EA92031;

IV The following funds:

- a All funds in accounts at Home Trust bank in the sole name or joint names of James W. Bailey, Jr., Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, LLC, and AVL Properties, LLC. Such accounts include, but are not limited to, account numbers ending in 7457, 1038, 1955, 8281, 8299, 2366, 2491, 5685, and 5735;
- b All funds in accounts at Capital Bank in the sole name or joint names of James W. Bailey, Jr., Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, LLC, and AVL Properties, LLC. Such accounts include, but are not limited to, account numbers ending in 6286, 6738, and 6746;
- c All funds in accounts at Bank of Asheville in the sole name or joint names of James W. Bailey, Jr., Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, LLC, and AVL Properties, LLC. Such accounts include, but are not limited to, account numbers ending in 7360, 1230, 1360, 7863, 7921, 7939, and 1428;
- d All funds in accounts at Smith Barney and/or CitiGroup in the sole name or joint names of James W. Bailey, Jr., Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, LLC, and AVL Properties, LLC. Such accounts include, but are not limited to, account numbers ending in 2404; and
- e All funds in accounts at Asheville Savings Bank in the sole name or joint names of James W. Bailey, Jr., Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, LLC, and AVL Properties, LLC. Such accounts include, but are not limited to, account numbers ending in 1016, 3736, and 9508;

V Any and all interest in entities known as Southern Financial Services of North Carolina, Inc., 1031 Exchange Services, and AVL Properties, and any properties, real or personal, held by such entities; and

VI Any and all interest in any LLCs, including LLCs in the name of Southern Financial Services clients, established by Defendant and/or Southern Financial Services for the purpose of managing and/or purchasing assets, and any and all assets titled in the name of LLCs established by Defendant and/or

Southern Financial Services for the purpose of managing and/or purchasing assets, including but not limited to the following assets:

- a The real property at 130 NW 5th Street, Oak Island, North Carolina, more particularly described in Deed Book B2810, page 393 in the Brunswick County Register of Deeds;
- b The real property at 0 River Road, Bethel, North Carolina, more particularly described in Deed Book 683, Page 1891 in the Haywood County Register of Deeds;
- c The real property at 1525 NW 57th St, Unit 626, Seattle, Washington, more particularly described as Parcel Number 20080917000400 in the King County Register of Deeds;
- d One or more promissory notes secured by deeds of trust on the real property known as the "Louise B Buckner Property" and more particularly described in Buncombe County Register of Deeds Book 4613, Page 1947;
- e The real property at 156 Allegra Lane, Silverthorne, CO 80498, more particularly described in Summit County records as "Unit 156 BLDG N-6 PONDS AT BLUE RIVER CONDO SEVENTH AMENDMENT";
- f The real property at 23 Sequoia Drive, Greenville, South Carolina, more particularly described in Deed Book 2367, Page 5518 in the Greenville County Register of Deeds;
- g The real property at 1608 E. North Street, Greenville, South Carolina, more particularly described in Deed Book 2374, Page 4994 in the Greenville County Register of Deeds;
- h The real property at 409 Morris Street, Greenville, South Carolina, more particularly described in Deed Book 2364, Page 3399 in the Greenville County Register of Deeds;
- i The real property at 121 Henderson Avenue, Greenville, South Carolina, more particularly described in Deed Book 2366, Page 698 in the Greenville County Register of Deeds,
- j The real property at 602 Highlands Mountain Club, Highlands, North Carolina, more particularly described in Deed Book A-33, Page 1328 in the Macon County Register of Deeds;

- k The real property at 718 East 24th St., Hialeah, Florida;, more particularly described in Folio Number 04-3108-001-1200 in the Miami-Dade County Register of Deeds;
- l Lot S-8 as shown on a Plat in Plat Book 5 at Page 881 in Madison County Register of Deeds, North Carolina;
- m The real property known as “100 acres more or less Big Hickory Bear Pen Branch,” more particularly described in Deed Book 336, Page 554 in the Madison County, North Carolina Register of Deeds;
- n The real property known as 38.10 acres on Cheeks Quarter Road, Hayesville, North Carolina, more particularly described in Deed Book 1673, Page 260 in the Franklin County Register of Deeds;
- o The real property known as 11.79 acres on Rocky Fork Road, Franklin County, North Carolina, more particularly described in Deed Book 1673, Page 539 in the Franklin County Register of Deeds;
- p The real property at Soap Stone Ridge Road, Bakersville, North Carolina, more particularly described in Mitchell County Register of Deeds Book 460, Page 187;
- q The real property known as 5.5 acres, Crabtree Township, Burnsville, North Carolina, more particularly described in Deed Book 587, Page 386 in the Yancy County Register of Deeds;
- r The real property at 2622 Dayton Street, Knoxville, Tennessee, more particularly described in Instrument No. 200810270027933 in the Knox County Register of Deeds;
- s The real property at Flowery Branch Road, Buford, Georgia, more particularly described in Deed Book 49644, page 1 in the Gwinnett County Register of Deeds;
- t Any and all interests secured by a Mortgage Security Agreement on file at the New York City Department of Finance, Office of the City Register, Document 2009061601107002, in regard to real property at Manhattan Borough Block 1497, Lot 1001, also known as 1049 5th Avenue;
- u The real property known as Parcel 1-1 Township, Parcel B, Madison County, North Carolina, more particularly described in Deed Book 415, Page 475 in the Madison County Register of Deeds;

- v The real property at 200 S. Shamrock Avenue, Landrum, South Carolina, more particularly described in Deed Book 91J, Page 747 in the Spartanburg County Register of Deeds;
- w The real property at 22 Harris Lane, Maylene, Alabama, more particularly described as Instrument No. 20080530000219090 in the Shelby County Register of Deeds;
- x The real property at 78 Harris Lane, Maylene, Alabama, more particularly described as Instrument No. 20080530000219080 in the Shelby County Register of Deeds;
- y The real property at 122 Harris Lane, Maylene, Alabama, more particularly described as Instrument No. 20080530000219100;
- z Any rights to ownership of or a lease on the real property at Ocean Lakes Campground Lot 5437, Myrtle Beach, South Carolina;
- aa The real property at 2896 Treadwell Street, Mt. Pleasant, South Carolina, more particularly described in Deed Book 651, Page 45 in the Charleston County Register of Deeds;
- bb The real property at 13 Old Candler Town Road, Candler, North Carolina, more particularly described in Deed Book 4688, Page 792 in the Buncombe County Register of Deeds;
- cc The real property at Richland Creek Road, Clyde, North Carolina, more particularly described in Deed Book RB713, page 1363 in the Haywood County Register of Deeds;
- dd The real property at 30 West Chapel Road, Asheville, North Carolina, more particularly described in Deed Book 4478, Page 287 in the Buncombe County Register of Deeds,
- ee Any and all interest in The Monroe Circle Real Estate Revocable Trust;
- ff Any and all interest in Ten Twelve, LLC;
- gg The real property at 420 Hells Hollow Lane, Blue Ridge, Georgia, more particularly described in Deed Book 829, Page 312 in the Fannin County Real Estate Index;
- hh Any and all interest in the real property at 2440 Pleasant Dale Road, Norcross, Georgia or an entity that owns such real property;

- ii The real property at Lot 2, at Sweetwater Hills, Ridgeview, Henderson County, North Carolina, more particularly described in Deed Book 1411, Page 113 in the Henderson County Register of Deeds,
- jj The real property at 261 3rd Street, Key Colony Beach, Florida, more particularly described as Parcel Number 010072750-000000 in the Monroe County Register of Deeds;
- kk The real property at Bayside Lot #58, Grainger County, Tennessee, more particularly described in Deed Book IN289, Page 1211, in the Grainger County Register of Deeds;
- ll The real property at Lot 1, The Gorges at Lake Toxaway, more particularly described in Deed Book 484, Page 811 in the Transylvania County Register of Deeds;
- mm The real property at Bayside Lot #57, Grainger County, Tennessee, more particularly described in Deed Book IN289, Page 1208 in the Grainger County Register of Deeds;
- nn The real property at 245 Weaverville Road, Woodfin, North Carolina, more particularly described in Deed Book 4827, Page 1295 in the Buncombe County Register of Deeds;
- oo The real property at 7657 Johns Creek Road, New Castle, Virginia;
- pp The real property at 141 Wexford Drive, Unit 200, Anderson, South Carolina, more particularly described in Deed Book 8550, Page 218 in the Anderson County Register of Deeds;
- qq The real property at 107 and 108 High Field Court, Anderson, South Carolina, more particularly described in Deed Book 8716, Page 176 in the Anderson County Register of Deeds;
- rr The real property at 710 Three River Road, Carrabelle, Florida, more particularly described as Instrument No. 200919002776 in the Franklin County Register of Deeds;
- ss The real property at 505 Marine Street, Carrabelle, Florida, more particularly described as Instrument No. 200919004860 in the Franklin County Register of Deeds;
- tt The real property at 301 Avenue J, Carrabelle, Florida, more

particularly described as Instrument 20109001517 in the Franklin County Register of Deeds;

- uu The real property at 1212 N.E. 1st Street, Carrabelle, Florida, more particularly described in Instrument No. 201019002015 in the Franklin County Register of Deeds;
- vv The real property at 301-305 West Oaklane Avenue, Johnson City, Tennessee, more particularly described at Roll 587, Image 2028 in the Washington County Register of Deeds,
- ww The real property at 229 Bowling Park Road, Asheville, North Carolina, more particularly described in Deed Book 4382, Page 154 in the Buncombe County Register of Deeds;
- xx The real property at Rich Square Township, Northampton County, North Carolina, more particularly described as Parcel Number 06-01907 in the Northampton County property records;
- yy Any and all bonds, including but not limited to Honeywell International Global Bonds and GE Capital Global Bonds; and
- zz Any and all shares or percentile ownership of entities, including but not limited to shares of or ownership in Griffin Stafford Lodging One, LLC and 110,000 shares of Sage Automotive seized during the course of this investigation.

2. The United States Marshal, United States Secret Service, Internal Revenue Service, and/or other property custodian for the investigative agency is authorized to take possession and maintain custody of the above specifically identified property;

3. The United States shall, to the extent practicable, provide direct written notice to any persons known to have alleged an interest in the specifically identified property, and shall publish notice of this forfeiture as required by law;

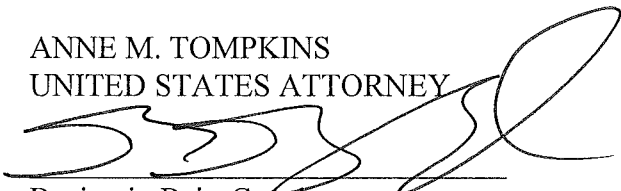
4. **Any person, other than the defendant, asserting any legal interest in the specifically identified property under 21 U.S.C. § 853(n) may, within thirty days of the publication of notice or the receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of the alleged interest;**

5. Following the Court's disposition of all timely petitions filed, a final order of forfeiture shall be entered. If no third party files a timely petition, this order shall become the final order and judgment of forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2), and the United States shall have clear title to the property, and shall dispose of the property according to law. To the extent that this consent order constitutes a \$13,000,000 forfeiture money judgment, this order is a final

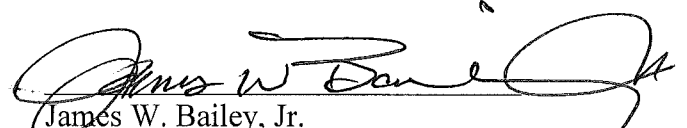
money judgment;

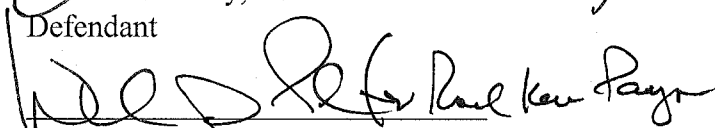
The parties stipulate and agree that the aforementioned assets constitute property derived from or traceable to proceeds of defendant's crime(s) herein and are therefore subject to forfeiture pursuant to 18 U.S.C. §§ 981 and 982, 21 U.S.C. § 853 and/or 28 U.S.C. § 2461(c). The defendant hereby waives the requirements of Fed. R. Crim. P. 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment against defendant. If the defendant has previously submitted a claim in response to an administrative forfeiture proceeding regarding any of this property, defendant hereby withdraws that claim. If defendant has not previously submitted such a claim, defendant hereby waives all right to do so.

ANNE M. TOMPKINS
UNITED STATES ATTORNEY



Benjamin Bain-Creed
Assistant United States Attorney


Corey F. Ellis
Assistant United States Attorney


James W. Bailey, Jr.
Defendant


Ronald Kevin Payne
Attorney for Defendant

Signed this the 16th day of February, 2011.


UNITED STATES MAGISTRATE JUDGE
Western District of North Carolina